

Attorney Docket No. AUS920031057US1
Serial No. 10/798,903

II. REMARKS

Claims 1, 4-6, and 10 to 21 are pending in the present application. Claims 2, 3, 7-9, and 22-45 were canceled; claims 1, 4-6, and 10 were amended. Reconsideration of the claims is respectfully requested.

Claim Rejections – Double Patenting

The Examiner rejected all of the claims 1-45 for alleged double patenting over claims 1-20 of the related US Patent No. 7,321,903 (the '903 Patent). Applicants respectfully traverse this rejection. The '903 patent is commonly owned with the present application. Furthermore, though related, the '903 patent and this application claim different inventions.

Even if a double patenting rejection were proper, there is no need for a terminal disclaimer in this application. This application was filed on March 11, 2004, several months before the May 6, 2004 filing date of the '903 Patent. An application issuing on this application will expire before the '903 patent.

The Examiner also raised an *In re Schneller* double patenting rejection [Office Action page 3, first full paragraph]. The Examiner asserts that the claims of this application could have been presented during the prosecution of the '903 Patent. Applicants respectfully disagree and traverse this rejection. The disclosures are not the same in the two cases. For example, Fig 3 of the '903 Patent does not include the step (210) shown in Fig 3 of this application. Step (210) is an element of all of the claims in this application.

In re Schneller rejections are disfavored and must be approved by the Technology Center Director. MPEP § 804 states:

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The decision in *In re Schneller* did not establish a rule of general application and thus is limited to the particular set of facts set forth in that decision. The court in *Schneller* cautioned "against the tendency to freeze into rules of general application what, at best, are statements applicable to particular fact situations." *Schneller*, 397 F.2d at 355, 158 USPQ at 215. Nonstatutory double patenting rejections based on *Schneller* **will be rare**. The Technology Center (TC) Director must approve any nonstatutory double patenting rejections based on *Schneller*. If an examiner determines that a double patenting rejection based on *Schneller* is appropriate in his or her application, the examiner should first consult with his or her supervisory patent examiner (SPE). If the SPE agrees with the examiner then approval of the TC Director must be obtained before such a nonstatutory double patenting rejection can be made. [emphasis in original]

Applicants respectfully request that the double patenting rejection be withdrawn.

Claim Rejections - "The Specification"

The Examiner objected to the phrases "computer program product" and "computer usable medium" in claim 22 [Office Action page 3]. The Examiner also objected to the dependencies in claims 8 and 29. These objections are moot because the corresponding claims have been canceled.

Claim Rejections - 35 U.S.C. § 112, Second Paragraph

The examiner rejected claim 43 under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is moot because claim 43 has been canceled.

Claim Rejections - 35 U.S.C. § 102, Anticipation

The examiner has rejected claims 1 and 22 under 35 U.S.C. § 102 as being anticipated by *Shen et al.* (Shen), U.S. Patent Application Publication 2004/0204983. This rejection is

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respectfully traversed. However, this rejection is also moot because claim 1 has been substantially amended, and claim 22 has been canceled. Among other changes, the amended claim 1 now includes elements from the canceled claims 2, 3, and 7-9. The original claims 2, 3, and 7-9 were not rejected under 35 U.S.C. § 102. Consequently, amended claim 1 is no longer subject to the pending rejection under 35 U.S.C. § 102.

Claim Rejections - 35 U.S.C. § 103, Obviousness

The examiner has rejected claims 2 to 21 and 23 to 45 under 35 U.S.C. § 103 as being unpatentable over Shen in view of *Fukumoto et al.* (Fukumoto), U.S. Patent Application Publication No. 2004/0019677. This rejection is respectfully traversed. Claims 2, 3; 7-9; and 23-45 have been canceled. The single pending independent claim 1 has been substantially amended. Amended claim 1 is not taught or suggested by Shen, alone or in combination with Fukumoto.

Specifically, Claim 1 now recites a method for gathering a plurality of evaluations from a plurality of users [0027] who evaluate a plurality of distributed content pages [0018; 0027] on a single web site [0017] during a single user session [0034]. The user is pre-qualified before the evaluation is allowed [FIG. 3, step (210)] by a "minimum evaluation criteria."

Neither reference teaches or suggests an individual user evaluation of multiple content pages on a single web site. Shen, for example, aggregates all of the user ratings of a web advertisement across all of the web sources to assist the advertiser (see e.g. Abstract; FIG. 16-17; [0012; 0042]). These advertisements are typically pop-ups that are distributed across multiple

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web pages from multiple web sites. Shen does not measure the subject matter effectiveness of different distributed content pages on a single web site.

More specifically:

Shen does not "Install[] an evaluation program on a computer...." Shen is a data collection and reporting system that operates independently from the computer systems it monitors.

Shen does not "accept[] access to a web site by one ... user[]." Shen is not a web site access or control system. In Shen, the web access and control remains with the web sites that link to Shen's advertisements.

Shen does not "access[] a user evaluation criteria associated with the user." Shen stores user statistics, but it does not use them to control the rating process.

Shen does not "create[] a user session..." to track "the user's access to each of a plurality of distributed content pages on the web site..." Shen tracks advertising content views and evaluations. Shen does not track user navigation across a web site.

Shen does not "determin[e] whether a version of a distributed content page accessed by the user is associated with a content rating window...." Shen aggregates information through an existing content rating window. Shen does not check for the existence of such windows.

Shen does not "determin[e] whether the user meets a minimum evaluation criteria." Shen is able to access and store user information, but Shen does not use the user information as a control for the rating process.

Shen does not "associat[e] the user rating with the user session." Shen aggregates the advertising ratings of multiple users across multiple web sites.

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Shen does not "clos[e] the user session when the user exits the web site." Shen does not track user sessions.

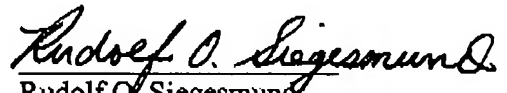
Fukumoto does not overcome the deficiencies of Shen. Fukumoto is a web site statistical analysis tool [see e.g. Abstract]. Fukumoto does not collect subjective user evaluations of a web site. Fukumoto merely aggregates statistical data and presents data reports to an administrator for viewing (e.g. [0085]; and each of the independent claims).

The remaining claims in the application all depend from amended claim 1. Therefore, the rejections of the pending claims 1, 4-6, and 10 to 21 under 35 U.S.C. § 103 have been overcome for the reasons stated above.

CONCLUSION

Applicant submits that the claims are now in condition for allowance.

Respectfully submitted,



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